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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/857,947	09/17/2001	Bjorn Hamsten	ALBIHN-407	2562
530	7590	07/27/2006	EXAMINER	
LERNER, DAVID, LITTENBERG, KRUMHOLZ & MENTLIK 600 SOUTH AVENUE WEST WESTFIELD, NJ 07090			SHARMA, RASHMI K	
			ART UNIT	PAPER NUMBER
			3651	

DATE MAILED: 07/27/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/857,947	HAMSTEN, BJORN	
	Examiner	Art Unit	
	Rashmi K. Sharma	3651	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 07 April 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 21-29,31-37 and 39-52 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 21-29,31-37 and 39-52 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 07 April 2006 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Drawings

The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, means for controlling the speed of each unit, conveyor means, a transport device and the shifting device is arranged for guiding at least two units simultaneously must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Specification

Applicant's amendment to the specification dated 4/7/06 includes a conveyor means (12), however this conveyor means (12) in the replacement drawing of Figure 1 is referencing the shifting unit (6). No further description within the specification clarifies exactly what structure the conveyor means (12) refers to. Further clarification or correction is required.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 21- 29, 31-37 and 39-52 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 21 lines 11-15 recites "wherein said control device is arranged for speed control of said shifting device so as to accelerate said units in said shifting device, thereby providing separation of said units with respect to one another in a longitudinal direction of flow...". This recitation implies that either the shifting device varies in speed or the shifting device effects the speed of the units. It appears that neither of these two functions is being performed by the shifting device, therefor this claim limitation is deemed to be vague and indefinite. Claim 36 recites "...said shifting device is arranged for constant speed.", which is contrary to the recitation quoted above in claims 21 and

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33. Claim 33 also has similar claim language and correction or further clarification is required for both claims 21 and 33.

Claim 22 recites the limitation "the properties" in line 4. There is insufficient antecedent basis for this limitation in the claim.

Claim 26 recites "...along conveyor means.". It is unclear as to exactly structure what the Applicant intend to mean. Is it the incoming feeder track, the outgoing feeder track, the diverter or the conveyor on which the diverter is diverting the articles. Further clarification is required.

Claims 25, 26 and 33 recite "means for controlling the speeds of each said unit". Exactly what structure defines this claim limitation. Claim 33 recites "means for controlling the speeds of each said unit in said shifting device". How can the means for controlling the speeds of each of the units be located *in* the shifting device? Correction or further clarification is required.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 21-29, 31-37 and 39-52 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sjostrand (US Patent number 5,186,306) in view of Okada et al. (US Patent number 6,076,683) and in view of Hakansson (US Patent number 5,439,094).

Sjostrand discloses an apparatus for controlling units within a continuous flow from at least one incoming feeder track (3) into at least one outgoing feeder track (9, 10) comprising at least one shifting device or transport devices (7, 8) pivotable about an axis for controlled shifting of the flow from the incoming feeder track, a control device (control system of column 2 line 47-48) capable of controlling speeds of each unit and of determining proper shifting of the shifting device (7, 8), wherein the control device is arranged for speed control of said shifting device (7, 8), wherein the control device operates in dependence of the speed of each unit from the incoming feeder track (3) and the properties of the shifting device (7, 8) and the outgoing feeder track (9, 10), wherein means for shifting the shifting device (7, 8) is a motor controlled by commands for the control device.

Sjostrand as disclosed above, fails to explicitly disclose each unit being accelerated along the shifting device to a speed exceeding the speed of the flow from the incoming feeder track, thereby providing separation of the units with respect to one another in a longitudinal direction of flow while each unit is guided to a selected path of the outgoing feeder track, the separation allowing for the controlled shifting without arresting the continuous flow, thereby creating a minimum distance between two consecutive units which allows the controlled shifting into the selectable paths and thereby maintaining the minimum distance when the units are exiting the shifting device.

However, Okada et al. does disclose a second downstream conveyor 5 traveling faster than the first upstream conveyor 4.

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It would have been obvious to one having ordinary skill in the art at the time the invention was made to replace Sjostrand's incoming conveyors (3 and 4) with that of Okada et al.'s conveyors (4 and 5) thereby creating the acceleration of the units along the shifting device to a speed exceeding the speed of the flow from the incoming feeder track in order to provide for the timed conveyance of smaller, lighter articles. It should also be noted that separation of the units being conveyed may be accomplished by acceleration or arresting the continuous flow, thereby creating a minimum distance between two consecutive units which allows the controlled shifting into the selectable paths and thereby maintaining the minimum distance when the units are exiting the shifting device..

Sjostrand as disclosed above, also fails to explicitly disclose a plurality of horizontally spaced, parallel, selectable paths within the outgoing feeder track.

Hakansson does disclose a plurality of horizontally spaced, parallel, selectable paths within the outgoing feeder track (reference numeral 11 in Figure 4).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to replace Sjostrand's outgoing feeder tracks (9, 19) with that of Hakansson's single outgoing feeder track in order to simplify the construction, thereby having one single outgoing feeder track as opposed to two.

Response to Arguments

Applicant's arguments with respect to claims 21-37 and 39-52 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Rashmi K. Sharma whose telephone number is 571-272-6918. The examiner can normally be reached on Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gene Crawford can be reached on 571-272-6911. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR.

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Status information for unpublished applications is available through Private PAIR only.

For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

rks


GENEO. CRAWFORD
SUPERVISORY PATENT EXAMINER